

me to interrupt him a moment? I have an amendment to the proposition, which I think, if he will accept it, would probably meet the unanimous concurrence of the house, if it is only desired to reach the conclusion indicated. I will read it, and then he can go on with his remarks if he sees proper. I do not suppose that we take away from the legislature, by the 40th section, the power to receive anything which may be granted by Congress; but I am perfectly willing to put it beyond doubt, by offering a proposition fairly covering every question of the sort, without specific reference to this. It is this:

"The general assembly shall have power to receive from the United States any grant or donation of land, money or securities for any purpose designated by the United States, and shall administer or distribute the same according to the conditions of the said grant."

Mr. MILLER resumed: I proposed merely, on rising, to answer the argument that has been made here by the gentleman from Baltimore city (Mr. Stockbridge,) this morning, upon the question of property in slaves. I say that the question has been decided over and over again by the Supreme Court of the United States, and by the courts of every State of the Union. The constitution itself secures and recognizes it as property. And the State of Maryland has no right to decide as between master and slave, that that right of property does not exist. You may emancipate; I agree to that. You have the power to emancipate. But when exercising that power justice and right requires that the property, which has been sanctioned as property by the constitution, should be paid for; you have no right to destroy slavery without making compensation to the owners. You have no right to say that it is not and never was property. By adopting this constitution you have precluded yourself from ever asserting that as a proposition of law.

One word in regard to the question that was argued yesterday by my learned friend from Baltimore city (Mr. Thomas,) who said that slavery never had existed in Maryland by virtue of the common law. He quoted from the decision of Judge Chase, in the case of *Mahony vs. Ashton* (4 Harris & McHenry, 295.) Judge Chase gave that decision sitting in general court. Exceptions were taken, and it went up to the Court of Appeals, and a different decision was pronounced by the Court of Appeals upon that proposition. I have that decision here.

Mr. THOMAS. Will the gentleman read it?

Mr. MILLER. The question is whether or not the common law of England recognized the question of slavery. Let us see what the Court of Appeals say upon that subject:

"Great industry hath been used, and great ability displayed by the counsel in the argument in this cause. The decision, involving on the one hand the question of freedom or

slavery to the plaintiff below, and on the other, great pecuniary interest to persons claiming negroes under similar circumstances, demanded it.

"The court have felt the importance of the subject, and given it their most serious consideration. If this case was before a British court, it would seem that the question should be decided according to the British law as it stood between the years 1663 and 1681, and not by the law as it may have been modified subsequent to that period. No adjudged case in the British books hath been cited, nor have the court been able to find one coming up to the case in the exception. Opposing cases, as well as opinions of particular judges and law-writers, have been cited as applicable to the cases. About the period of Ann Joice's being in England, a diversity of opinion prevailed on that subject. At one period it was held by a judge that a slave, by being brought to England, thereby became free. Sometimes it hath been held that a trover would lie, at other times that it would not; that the sale of a negro was a sufficient consideration to support assumpsit to pay the price; that a master, deprived of his slave, might support an action *per quod servitium amisit*. By British charters and British acts of parliament, the slave trade hath been authorized and encouraged, and slaves have been considered there as merchandise, as chattels, as property, and have, by a British statute operating in this State, been subjected to be sold and disposed of as other property for the payment of debts."

That is what the court decided.

Mr. THOMAS. He does not say held as merchandise by the common law.

Mr. MILLER. It is the question of common law which the court is considering. They proceed to say:

"Lord Chief Justice Talbot and Sir Philip York, in 1729, expressly declare, that a slave coming from the West Indies, with or without his master, to Great Britain or Ireland, doth not become free, and that his master's right in him is not thereby determined or varied, &c. And that his master may legally compel him to return. This opinion is recognized by Hardwicke, acting as chancellor, in 1740, and that trover would lie for a negro.

Mr. STIRLING. I rise to a question of order. The question before the convention is whether the legislature shall have power to receive a grant from the United States. This is all a very interesting discussion between lawyers, whether slavery existed in England under the common law; and I submit that it does not bear upon that question.

Mr. MILLER. I would submit that the latitude of debate allowed other members upon this subject, allows me to go on and reply to the member from Baltimore city (Mr. Thomas.) The question is upon compensation for slaves; and the gentleman from Baltimore